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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/670,777	09/26/2003	Michael Staw	37402.010600VPU	4342

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EXAMINER	
HOTALING, JOHN M	
ART UNIT	**PAPER NUMBER**
3714	

DATE MAILED: 04/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/670,777	STAW, MICHAEL	
	Examiner	Art Unit	
	John M. Hotaling II	3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *27 July 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-4,9,10,16 and 21-23* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-4,9,10,16 and 21-23* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 22 and 23 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Charron et al US Patent 5,542,669. Charron discloses in the abstract and in columns 9-11 that a gaming apparatus that plays an interactive game of poker with a player provides a payback table that is modified at the beginning of each hand to provide at least one bonus card combination which has an increased payback amount. The bonus card combination having the increased payback amount is randomly selected prior to dealing the hand. In addition the amount by which the payback is increased is also randomly selected. Column 3 lines 60-65 state that the game can be any game of chance. Column 5 lines 53-67 disclose that the amount of winnings for a particular card combination is variable depending on the wants and needs of the casino. The casino operator also determines the odds of a particular outcome being selected. Column 10 discloses variable payback percentages. At detailed reading of the disclosure of Charron teaches an artisan of ordinary skill all of the claimed subject matter. Specifically, columns 11-13 disclose that if the maximum coins have been bet, the processor 150 enters a bonus hand picking routine 726 in which the processor 150 randomly selects a bonus hand by randomly selecting a number from 1 to 9 to represent

each of the nine possible levels of hands. Any conventional random number generation program can be used in the picking routine 726. Each of the nine levels has an equal probability of occurring such that statistically each hand will be picked substantially the same number of times as each other hand. After selecting the bonus level, the processor 150 enters a bonus amount selection routine 728 wherein the processor 150 selects a bonus amount for the selected bonus level. If the maximum bet was wagered and if the current hand matches the bonus hand, the processor 150 enters a bonus routine 764 wherein the processor 150 adds the bonus amount to the conventional payout amount from the payout table and stores it in the paytable currently in the RAM 180. With respect to the amended subject matter the instant application states in paragraph 15 and 30 of the US publication application 2004/0132523 (the instant application) that "a secondary pot is preferably a fixed sum contributed by the house, although a secondary pot of progressive value, such as one in which the value of the pot gradually increases as a percentage of the house's rake until the secondary pot is won, is also envisioned. In a preferred embodiment, a player whose hand matches the alternative winning hand is paid from the secondary pot (Block 235), and the secondary pot is replenished by the house (Block 240). In an alternative embodiment, the secondary pot may be a progressive jackpot to which the house contributes a portion of its rake or other winnings at the end of each game. Since such is not defined in the specification the examiner will take the winning of an alternative pot as the one preferably replenished by the house which is anticipated by Charron when the modified pay table is awarded. With respect to claim 22 where the pay table modification is the

re-ordering of the pay table such that the selected bonus hand is the highest ranking hand this is inherent in the system of Charron where there is a random selection of a bonus hand and if your hand matches the bonus hand and the only hand and the highest ranking hand then you win the modified paytable amount. Claim 1 of Charron does not preclude blackjack from being played in this manner. Further Column 3 lines 60-65 state that any game of chance may be utilized.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 9, 10, 16 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Charron et al US Patent 5,542,669 as applied to the claims above in view of Mishra US Patent Application Publication 2004/0053673. Charron discloses all of the instant application as disclosed above but lacks in disclosing progressive pots associated with a gaming outcome and specifically disclosing that the game can be used with blackjack. In an analogous invention, Mishra compares the result of a game with that of additional symbols generated and determines if an additional award is due the player based on any method for providing symbols to determine if a combination or set or order or single symbol is predetermined as an award symbol display. In the play of the game above, it is possible for a jackpot contribution to be identified from the

machine when a certain combination of the special symbols occurs. Rather than taking a percentage of all wagers made and applying it to a jackpot, in one example of the invention, only wager amounts made when there are predetermined combinations of special symbols will be contributed. This methodology avoids duplicating the many jackpot games using a constant percentage contribution. Players may feel more inclined to contribute towards a jackpot when there appears to be a high frequency of near misses to the jackpot. It is important to understand that the bonus wheel, reel or other symbol selection device is played in each round of play, and that no separate bet is required to play the matching game. The matching game according to the invention is an integral part of the underlying game and is not a separate bonus event that is played at the player's option. If you match the bonus game then you win the bonus game It would be obvious to one of ordinary skill in the art at the time of the invention to use the jackpots that are associated with a winning event when a symbol selected matches the bonus award in order to attract players to play the game machine as disclosed above.

Claims 9, 10, 16 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Charron et al US Patent 5,542,669 as applied to the claims above in view of Vancura US Patent 6,517,073. Charron discloses all of the instant application as disclosed above but lacks in disclosing progressive pots associated with a gaming outcome and specifically disclosing that the game can be used with blackjack. In an analogous invention to Vancura therein is disclosed a bonus game that is played with the main game of blackjack and that the bonus prizes may be a progressive jackpot.

The side game of Vancura discloses that you can have an optional bet on a specific combination of black jack. For instance an all red suited blackjack. If you hit then you win the winnings of the blackjack and the side bet and an option to play an additional game. Column 6 lines 54-67 disclose that this game can be played with other card games and may be a progressive jackpot.

Response to Arguments

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

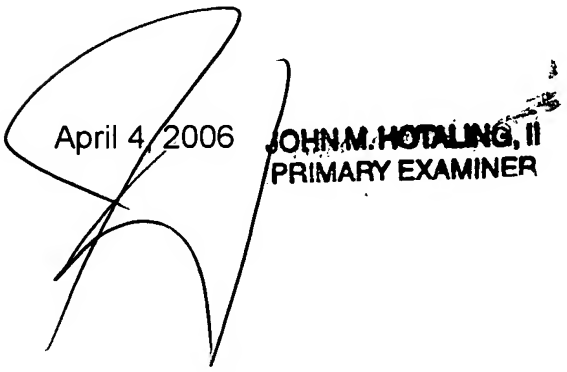
Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John M. Hotaling II whose telephone number is (571) 272 4437. The examiner can normally be reached on Mon-Thurs 7:30-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on (571) 272 3507. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



April 4, 2006

JOHN M. HOTALING, II
PRIMARY EXAMINER